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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/516,925	12/02/2004	Michael Green	HP/15-22690/A/PCT	7425
324 7590 08/30/2007 CIBA SPECIALTY CHEMICALS CORPORATION PATENT DEPARTMENT 540 WHITE PLAINS RD P O BOX 2005 TARRYTOWN, NY 10591-9005			EXAMINER HARDEE, JOHN R	
			ART UNIT 1751	PAPER NUMBER
			MAIL DATE 08/30/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/516,925	Applicant(s) GREEN ET AL.	
	Examiner John R. Hardee	Art Unit 1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-15,17,18,20-30 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-15,17,18,20-30 and 32-37 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07032007</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 15 is objected to because of the following informalities: The "a)" in line 3 should be moved to the beginning of line 4. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-7, 9-15, 17, 18, 20-30 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Research Disclosure* 429116. The reference discloses cross linked cationic polymers comprising 30-100% of one or more cationic monomers and 0-30% of nonionic monomers polymerized in the presence of 60-3000 ppm of cross linking agent and chain transfer agent at 10-2000 ppm (1<sup>st</sup> para.) Suitable cationic monomers include dimethylaminopropyl methacrylamide, dimethylaminopropyl acrylamide, and dialkylaminoalkyl acrylates and methacrylates, as well as their quaternary salts (2<sup>nd</sup> para.) The simplest members of the genus of quaternary salts of these monomers are the N-trimethyl species, making their use obvious over the general disclosure of the utility of quaternary ammonium salts. Suitable nonionic monomers include acrylamide and methacrylamide (3<sup>rd</sup> para.) Suitable cross linkers include methylene bisacrylamide (para. 5), and suitable chain transfer agents include isopropyl alcohol and sodium hypophosphite (6<sup>th</sup> para.) Claim 2 recites a product-by-process limitation which is not afforded patentable weight in the absence of any disclosure of

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unexpected results. The polymers are disclosed as being useful as thickeners for fabric softening compositions. Determination of the thickening-effective amount of a disclosed thickener amounts to ordinary experimentation. The formulation claims are drawn to typical fabric softener formulations. This reference differs from the claimed subject matter in that it does not disclose a composition which reads on applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a cationic polymeric thickening composition for fabric softeners. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990).

4. Claims 1-7, 9-15, 17, 18, 24-30 and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farinato et al., US 5,807,489. The reference discloses cationic polymeric flocculating agents for dewatering suspended solids (abstract). The polymers are formed via polymerization of cationic ethylenically unsaturated monomers, alone or with comonomers in the presence of a branching agent (cross linking agent) and a chain transfer agent (col. 3, top). Cationic monomers are of the form shown at col.

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3, line 30. Note the preferred species at col. 3, lines 20+. Preferred comonomers are acrylamide and methacrylamide (col. 3, lines 57+). Cationic copolymers preferably contain at least about 20 mole % of cationic monomer (col. 4, top). Methylene bisacrylamide is a preferred branching agent (col. 4, lines 62-63). Preferred chain transfer agents are isopropyl alcohol and lactic acid (col. 5, lines 11-12). Routine experimentation is useful for determining optimum levels of branching and chain transfer agents (col. 5, lines 33+), but chain transfer agent may be present at 0.01-5% and branching agent at 0.001-0.1% (col. 5, lines 44+). Claim 2 recites a product-by-process limitation which is not afforded patentable weight in the absence of any disclosure of unexpected results. Determination of the flocculation effective amount of a disclosed flocculant amounts to routine experimentation. This reference differs from the claimed subject matter in that it does not disclose a composition which reads on applicant's claims with sufficient specificity to constitute anticipation.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in a cationic polymeric flocculant composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

5. In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257,

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191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990).

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Mr. Douglas McGinty, may be reached at (571) 272-1029.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8100.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", with a stylized, cursive script.

John R. Hardee  
Primary Examiner  
August 28, 2007